

591—6.13(424) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the charge, require any depositor to file with the department a bond in an amount which the director may fix, or in lieu of bond, securities or cash in an amount which the director prescribes. Pursuant to the statutory authorization in Iowa Code section 424.9, the director has determined that the following procedure will be instituted with regard to bonds:

6.13(1) When required.

a. New applications for depositor permits. An applicant for a depositor's permit will be required to post a bond if:

(1) It is determined upon a complete investigation of the applicant's financial status that the applicant would be unable to timely remit the charge, or

(2) The new applicant held a depositor's permit or another permit issued by the department for a current or prior business and the remittance record of the charge or tax under the permit falls within one of the conditions in paragraph "b" below, or

(3) The department experienced collection problems while the applicant was engaged in business under any prior or current permit, or

(4) The applicant is substantially similar to a person who would have been required to post a bond under the guidelines as set forth in "b" or the person had a previous depositor's permit which has been revoked. An applicant is "substantially similar" to the extent that the applicant is owned or controlled by persons who owned or controlled a previous permit holder. For example, X, a corporation, had a previous depositor's permit revoked. X is dissolved and its shareholders create a new corporation, Y, which applies for a depositor's permit. The persons or stockholders who controlled X control Y. Therefore, Y will be requested to post a bond or security.

b. Existing permit holders. Existing permit holders will be required to post a bond or security when they have two or more delinquencies in remitting the charge or filing timely returns during the last 24 months. Late filing of a return and late payment of a charge will count as two delinquencies. However, the late filing of the return or the late payment of the charge will not count as a delinquency if the depositor can satisfy one of the conditions set forth in Iowa Code section 421.27.

c. Waiver of bond. If a permit holder has been required to post a bond or security or if an applicant for a permit has been required to post a bond or security, upon the filing of the bond or security if the permit holder maintains a good filing and payment record for a period of two years, the permit holder may request that the department waive the continued bond or security requirement.

6.13(2) Type of security or bond. When it is determined that a permit holder or applicant for a depositor's permit is required to post collateral to secure the collection of the charge, the following types of collateral will be considered as sufficient: cash, surety bonds, securities or certificates of deposit. See 701—subrule 11.10(2) for characterizations of the security or bond necessary to be posted under this subrule.

6.13(3) Amount of bond or security. When it is determined that a permit holder or applicant for a permit is required to post a bond or security, the amount of bond or security required is an amount sufficient to cover nine months or three calendar quarters of charge liability. The department does not accept bonds for less than \$100. If the bond amount is calculated to be less than \$100, a \$100 bond is required.

6.13(4) Disposal of securities. Securities may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any charge, interest or penalty due.

This rule is intended to implement Iowa Code section 424.9.